

## APPENDIX 27 EXEMPTION REVIEW BOARD CHECKLIST

Received: \_\_\_\_/\_\_\_\_/\_\_\_\_ By: \_\_\_\_  
Application Complete: \_\_\_\_/\_\_\_\_/\_\_\_\_ By: \_\_\_\_

COS or Subdivision Plat Name: \_\_\_\_\_  
(owner) (type)

Type of Exemption Requested:

- ☐ Agricultural Covenant   ☐ Boundary Adjustment   ☐ Family Transfer  
☐ Lot Aggregation   ☐ Mortgage   ☐ Other \_\_\_\_\_

1. Review fee submitted	Check # _____
2. Completed Appendix 28 (3 copies):	
(a) Information provided for all landowners	
(b) Signatures from all landowners	
(c) Landowner representative information	
(d) Legal description of properties involved	
(e) Basis for exemption	
3. Certificate of Survey (3 copies, if required)	
4. Draft Deeds (if transferring property)	
5. Supporting documentation (3 copies)	
6. Scheduled Review Date	____/____/____
7. Applicant Notified of Meeting On	____/____/____
8. Meeting Was Duly Noticed	

### Landowners

(1)Name: \_\_\_\_\_

(2)Name: \_\_\_\_\_

### Property Legal Description

Parcel ID/Geocode: 25-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_

1/4 Section: \_\_\_\_\_ Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

Subdivision Name/ Certificate of Survey #:

\_\_\_\_\_

Parcel/Tract # \_\_\_\_\_ Lot # \_\_\_\_\_ Block # \_\_\_\_\_

**EXEMPTION REVIEW BOARD** – Meeting Date: \_\_\_\_\_

**Determination**, based on attached review:

- ☐ Approved or Approved with Condition(s) (See Conditions/Comments). The approval expires 180 days from the date of the exemption review board determination.
- ☐ Submittal incomplete or inaccurate. Return to applicant for revisions. If second submittal is found incomplete or inaccurate, application will be denied and a new application and fee will be required.
- ☐ Deny (See Condition(s)/Comments)

**Conditions/Comments:**

- ☐ Taxes to be paid in full at time COS is presented for filing.
- ☐ Deeds transferring property required at time COS is presented for filing.
- ☐ Correct Sanitation Exemption. \_\_\_\_\_
- ☐ RSID payoff required for (*# or specific parcels*) \_\_\_\_\_.
- ☐ Review by examining land surveyor at applicant's expense is required.
- ☐ Corrections required: \_\_\_\_\_  
\_\_\_\_\_
- ☐ 1. Update water rights (through Montana Dept. of Natural Resources and Conservation).
- ☐ 2. \_\_\_\_\_
- ☐ 3. \_\_\_\_\_

Signatures of Exemption Review Board Members:

\_\_\_\_\_  
Sanitarian

\_\_\_\_\_  
Planning

\_\_\_\_\_  
Clerk and Recorder

\_\_\_\_\_  
Date

Applicant Notified of decision by Clerk & Recorder on \_\_\_\_\_.

A landowner whose exemption request has been denied may submit a written appeal of the decision to the governing body within twenty (20) working days after receiving notification of the exemption review board's decision. The appeal must be accompanied by an explanation of why the proposed exemption should be approved. The governing body may reverse the decision of the exemption review board.

NOTE: Approved exemptions must be submitted for filing within 180 days of the exemption review determination date.

## APPENDIX 27                      EXEMPTION REVIEW CHECKLIST *(Part 2)*

**General Criteria** – In its review of an exemption request, the exemption review board shall consider all of the surrounding circumstances. These circumstances may include, but are not limited to: (a) the prior history of the tract in question; (b) whether the claimant has engaged in prior exempt transactions involving the tract; (c) the configuration of the tracts if the proposed exempt transaction is completed; and (d) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
1. Tract history			
2. Claimant's prior exemption history involving the tract			
3. Resulting tract configuration			
4. Pattern of Development – Exemption(s) does/does not result in the equivalent of a subdivision without local subdivision review. If any of the following conditions exist, a pattern of development is presumed.	Does not	Does	
(a) <b>Original Tract Less Than 20 Acres:</b> more than three parcels (i.e., two exempt parcels and a remaining parcel) have/have not been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;	Have not	Have	

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
<b>(b) Original Tract 20 Acres Or More:</b> more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have/have not been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act;	Have not	Have	
<b>(c) Use of exemption(s) contiguous to platted lots</b> where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.	Does not meet description	Meets description	
5. Other Circumstances			

**Family Conveyance [76-3-207(1)(b), MCA]** The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family (See Appendix A for definition) without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

<b>Family Conveyance Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
FC 1. The proposed new parcel would/would not result in a pattern of development.	Would not	Would	
FC 2. The division is/is not made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a "straw person".	Is not	Is	
FC 3. A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption.	Does not meet description	Meets description	
FC 4. The transfer is/is not the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family.	Is not	Is	
FC 5. The name of the grantee and relationship to the grantor do/do not appear on the face of the proposed Certificate of Survey.	Do	Do not	
FC 6. The grantee is/is not also one of the grantors.	Is not	Is	
FC 7. The grantee is/is not a minor child and the trustee is the grantor.	Is not	Is	
FC 8. The property is/is not a parcel created through the family conveyance exemption which was transferred within three (3) years of the parcel's creation.	Is not	Is	

<b>Family Conveyance Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/ Condition</b>
FC 9. The affidavit of intent is/is not incomplete or missing.	Is not	Is	
FC 10. The tract proposed for division was/was not previously created through the use of an exemption.	Was not	Was	
FC 11. The proposed use of the family conveyance exemption would/would not create more than one remainder parcel of less than 160 acres.	Would not	Would	
FC 12. The exempted parcel is/is not being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres.	Is not	Is	
FC 13. There is/is not evidence at the time of review indicating that the proposed new tract is intended to be sold.	Is not	Is	
FC 14. This exemption is/is not an alternative to a proposed subdivision for which an application has been submitted.	Is not	Is	
FC 15. The proposed exemption is/is not located within a subdivision platted since July 1, 1973 (76-3-207(1)(b), MCA).	Is not	Is	

**Agricultural Exemption [76-3-207(1)(c), MCA]** - The intention of this exemption is to allow a landowner to create a parcel without local subdivision and sanitation review, where the land will be gifted, sold, or there is an agreement to buy and sell the divided land, which will be used only for the raising of crops or livestock or for the preservation of open space, and where no residential, commercial or industrial buildings will be built.

<b>Agricultural Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
AE 1. Documentation of the intent to gift, sell, or an agreement to buy or sell the divided land is/is not included as supporting documentation with the application.	Is	Is not	
AE 2. The proposed covenant to run with the land is included as supporting documentation with the application.	Is	Is not	
AE 3. The landowner has/has not demonstrated that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings have been or will be built on it.	Has	Has not	
AE 4. The parcel does/does not met the criteria for an agricultural exemption under 15-7-202, MCA.	Does	Does not	
AE 5. The appropriate sanitation exemption is/is not cited.	Is	Is not	

**Boundary Adjustment or Aggregation [76-3-207(1)(a) and (d), MCA]** - The intended purpose of this exemption is to allow a change in the location of a boundary line between two adjoining parcels and to allow a transfer of a tract to effect that change in location without local subdivision review.

<b>Boundary Adjustment/Aggregation Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
BA 1. Certificate of survey claiming the exemption does/dose not clearly distinguish between the existing boundary location and the new boundary and includes the appropriate landowner certification.	Does	Does not	
BA 2. Certificate of survey does/does not include the appropriate landowner certification.	Does	Does not	
BA 3. The boundary adjustment will/will not result in the permanent creation of an additional parcel of land.	Will not	Will	
BA 4. The submitted documentation does/does not support the stated reason for relocation.	Does	Does not	
BA 5. The proposed relocation of common boundary lines does/does not significantly rearrange multiple parcels with little or no resemblance to the original parcel configuration.	Does not	Does	
Where the boundary adjustment will affect more than one set of landowners:			
BA 6. All affected landowners did/did not sign the application for exemption.	Did	Did not	
BA 7. A quit claim deed from the adjoining property owner(s) for the newly described parcel or parcels is/is not included.	Is	Is not	



**Mortgage Exemption [76-3-201(1)(b), MCA]** - Division to Provide Security for a Mortgages, Liens or Trust Indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

<b>Mortgage Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Evasion Presumed</b>	<b>Discussion/Comment/Condition</b>
ME 1. Application includes a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.	Includes	Not included	
ME 2. More than one new building site will/will not be created.	Will not	Will	
ME 3. The financing is/is not for construction or improvements on the exempted parcel, or for refinancing.	Is	Is not	
ME 4. The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is / is not anyone other than the borrower of funds for construction or refinancing.	Borrower	Anyone but the borrower	
ME 5. Title to the exempted interest would/would not be initially obtained by the lending institution in the event of foreclosure.	Would	Would not	
ME 6. There is/is not a prior agreement to default or a prior agreement to purchase only a portion of the original tract.	Is not	Is	
ME 7. It does/does not appear that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose.	Does not	Does	

<b>Mortgage Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Evasion Presumed</b>	<b>Discussion/Comment/ Condition</b>
ME 8. The division of land is/ is not created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.	Is not	Is	
ME 9. Creates no more than one parcel under one hundred sixty (160) acres from the original tract.	Meets description	Does not meet description	

<b>OTHER EXEMPTIONS:</b> Other exemptions allowed under MCA 76-3-201
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Other Exemption (MCA 76-3-201)	Acceptable	Evasion Presumed	Discussion/Comment/ Condition
(a) Court Order MCA 76-3-201 CO1. Was/was not created by court order. CO2. Governing body was/was not notified by court (include written comment by governing body).	Was created  Notified	Was not created  Not notified	
(c) Surface Ownership Severed – Interest in oil, gas, minerals, or water severed from surface ownership.	Applies	Does not apply	
(d) Cemetery Lots.	Applies	Does not apply	
(e) Reservation of life estate.			
(f) Lease or rental for farming and agricultural purposes.			
(g) State does not have jurisdiction.			
(h) Rights-of-way or utility sites.			Subsequent change in use to residential, commercial, or industrial use subject to subdivision review